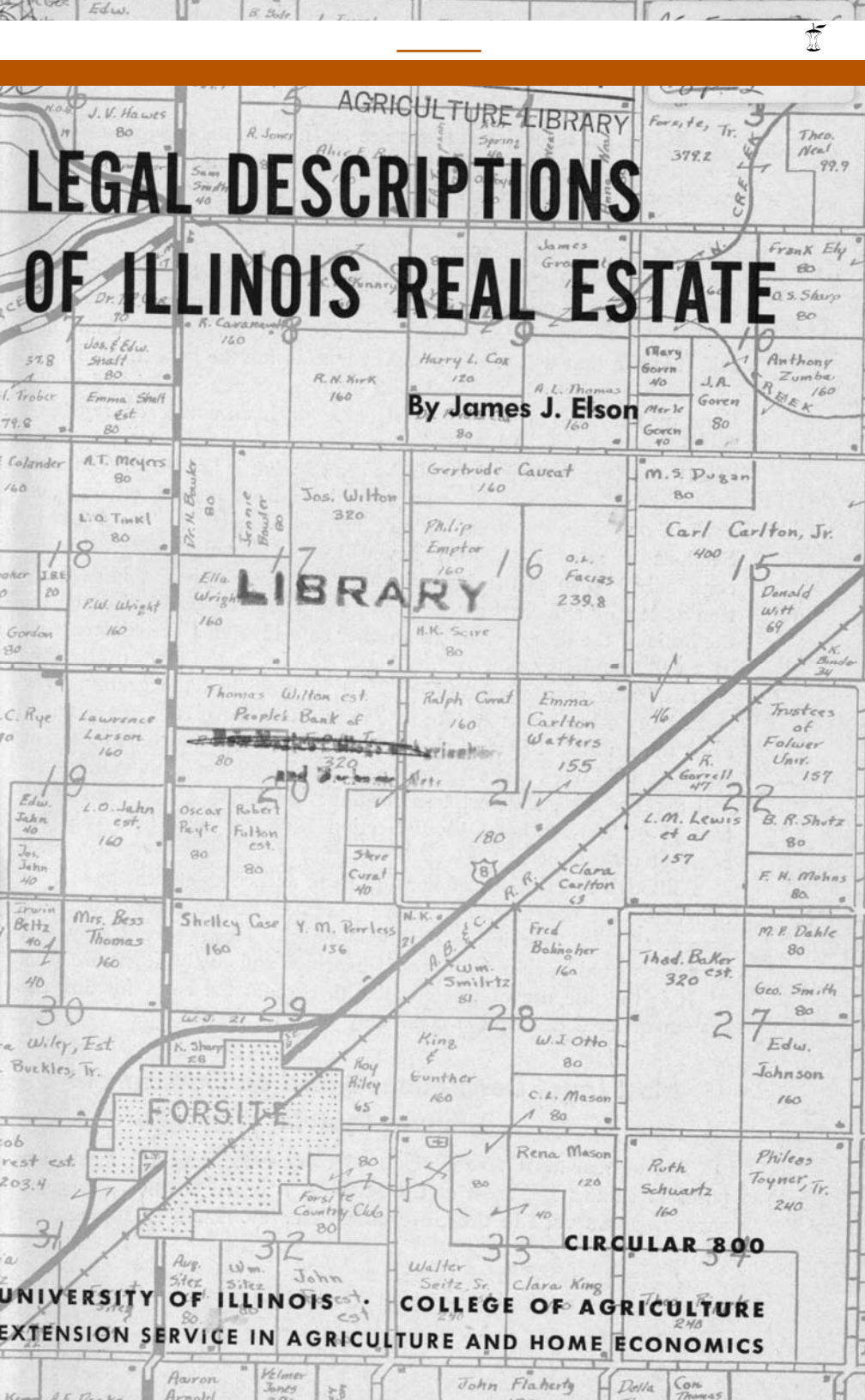


LEGAL DESCRIPTIONS OF ILLINOIS REAL ESTATE

By James J. Elson

CIRCULAR 800

UNIVERSITY OF ILLINOIS · COLLEGE OF AGRICULTURE

EXTENSION SERVICE IN AGRICULTURE AND HOME ECONOMICS

ADEQUATE legal descriptions are essential in many types of legal instruments — for instance in deeds, wills, contracts to sell real estate, and in mortgages. A deed to land without an adequate legal description is valueless. In fact, the courts have said that a legally sufficient description is equally as important as a grantor (one who conveys the land) and a grantee (one who receives it). For this reason, the use of a uniform system of description is highly important.

What is an adequate description? The Illinois Supreme Court has said it is one that will enable a surveyor to locate the land involved.

The courts have been faced with many problems involving descriptions of land and are often confronted with accepting or rejecting ambiguous or erroneous descriptions. Most court cases involving legal descriptions come about through the use of what is known as "common descriptions." Some such descriptions have been upheld, others have not. In one case, the grantor described the property as "my lands in Sections 16 and 17, Auburn Township, Sangamon County, Illinois, commonly known as the Barr farm." The court upheld this description as legally sufficient since "my lands" could be readily located on the basis of the description. In another case involving the construction of a will, the description of "my house and lot in the town of Patoka, Illinois," was upheld as sufficient. At no time had the grantor ever owned any other house and lot in Patoka. In a third case, the description "the southwest part of the northeast fractional quarter of Section 36" was held void since there was no specification of quantity. In still another case, a description reading "the South ½ of the Northeast ¼ of the Southeast ½ of Section Nineteen" was held void because of uncertainty.

Although descriptions of varying form and completeness have been upheld by the courts, as the above examples demonstrate, a uniform system of legal description that would make locating land easy and accurate would obviate many court hearings and costly litigation.

It is the purpose of this circular to explain the basis for and the system of legal description commonly used in Illinois.

Most Legal Descriptions Based on Government Survey System

The system most frequently used to describe land for legal purposes in Illinois and most of the Midwest is based on the rectangular survey system used in the Government Survey. Land in Illinois was

surveyed by government surveyors during the years 1805-1855, the major part of the work being done between 1815 and 1835.

In the rectangular survey system, land is described according to its distance from two fixed lines, one at right angles to the other. One line is a true north-south line and is called the principal meridian. The other line, an east-west line, is called the base line.

Meridians. Principal meridians are not located on geographic longitude. Contrary to popular understanding, they were established to meet surveying needs in a given area by government surveyors, who determined them with reference to natural objects.

The Third Principal Meridian, which roughly cuts Illinois in two, is located about 9 miles west of the 89th geographic meridian. It was established as a line running true north from the point of confluence of the Ohio and Mississippi rivers (Fig. 1). Its exact location is 89 degrees, 10 minutes, and 30 seconds west of Greenwich, England. Greenwich is the starting point for all longitudinal measurements since longitude 0 degree passes through it.

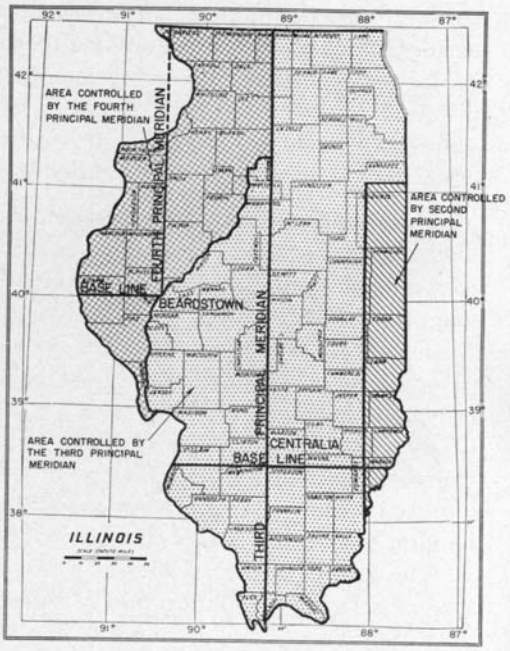
The Fourth Principal Meridian was established for surveying lands located between the Illinois and Mississippi rivers. It begins at a point near Beardstown and is along a line straight north from the mouth of the Illinois river near Grafton. The longitudinal reading of this line is 90 degrees, 28 minutes, and 45 seconds west.

The Second Principal Meridian, used in descriptions of some land in Illinois, is located in Indiana. Its reading is 86 degrees, 28 minutes, and 0 seconds west.

Not all principal meridians are numbered. Some, such as the Michigan and Louisiana Meridians, are named for the state in which they are located. Others are named for territorial features; for example, the Indian Meridian in Oklahoma and the Salt Lake Meridian in Utah. There are over 30 principal meridians in the United States.

Principal Meridians do not always extend from one state into another. The Third Principal Meridian is located entirely within Illinois; the Fourth Principal Meridian, however, extends into Wisconsin and is the reference line for all land descriptions in Wisconsin and for some in northeast Minnesota.

Base lines. The true east-west line under the rectangular survey system is called a base line. Like the principal meridians, the base lines were arbitrarily established by the government surveyors. There is at least one base line for each meridian. The base line for the Second and Third Principal Meridians is the same. It is a latitudinal line with a



Principal meridians and base lines in Illinois. (Fig. 1)

reading of 38 degrees, 28 minutes, and 20 seconds north of the equator. It intersects the Third Principal Meridian at a point near Centralia. The base line for the Fourth Principal Meridian runs straight west from the beginning of that Meridian near Beardstown. The geographical location of this line is 40 degrees, 0 minutes, and 30 seconds north. The Fourth Principal Meridian has a second base line used for describing land in Wisconsin and parts of Minnesota. This base line coincides with the Wisconsin-Illinois border.

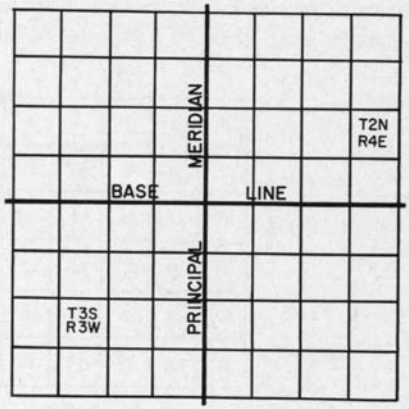
Correction lines. Because of the curvature of the earth's surface, the meridians, if extended, would converge at the North Pole. Therefore to keep their measurements accurate, government surveyors established correction lines at various distances from the principal meridians and base lines. In Illinois these lines are irregularly located, but in areas surveyed later they occur every 24 miles. Surveyors worked from one correction line to the next, and as a result sections located on opposite sides of a correction line will not have corresponding corners. The evidence of this exists today in the form of "jogs" in township roads. Correction lines for base lines are called standard parallels and those for principal meridians are called guide meridians. There

are no guide meridians in Illinois. Correction lines for base lines were established to take care of mechanical errors.

Townships. A township, as the term is to be used in this discussion, means a regular unit of 36 square miles. This is the so-called Land Office or Congressional Township and is not to be confused with civil townships of greater or less size. Because the township is a political subdivision in Illinois and because county lines do not always coincide with Land Office township lines and range lines, a named civil township may or may not contain 36 square miles. In legal descriptions, only Land Office or Congressional Townships are used.

In the rectangular survey system, lines were established every six miles from the base line and from the meridian. The east-west lines are called township lines and form the northern and southern boundaries for individual townships. The north-south lines established each six miles are called range lines and form the eastern and western boundaries of townships. The townships thus established are six miles on each side and are described according to their distance from the meridian and base lines in terms of the township and range lines. For example, townships between the meridian and the first range line east of the meridian are said to be in Range 1 East, while those located between the third and fourth township lines north of the base line are described as Township 4 North.

To locate a single township, both the township and range readings are used. Thus a township located between the first and second township lines north of the base line and between the third and fourth range lines east of the meridian is described as Township 2 North, Range 4 East (Fig. 2). A township located between the second and

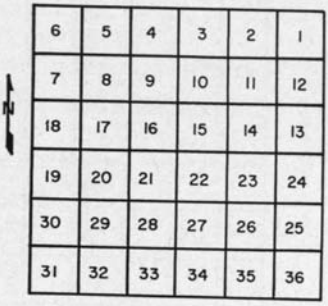


Description of townships according to township and range lines. (Fig. 2)

third township lines south of the base line and between the second and third range lines west of the meridian is described as Township 3 South, Range 3 West. The principal meridian involved must be included in the description. Thus if the Third Principal Meridian is involved, the latter part of the description of the second township in the example above would be Township 3 South, Range 3 West of the Third Principal Meridian. The county and state should also be given.

Sections. Each township is divided into 36 sections of 1 square mile each. To locate and describe land within a township, it is necessary to identify the section in which it is located. Federal law established the numbering system used to differentiate sections. Sections are numbered consecutively, 1 through 36, beginning with Section 1 in the northeast corner of the township and proceeding west to Section 6. Section 7 is located immediately below or south of Section 6 (Fig. 3). The numbering then goes back and forth until it reaches Section 36 in the southeast corner of the township.

A section theoretically contains 640 acres. But because of the convergence of lines and surveying errors, many sections do not contain this amount. To avoid having small errors in all sections of a township, it was determined that all shortages or surpluses would be assigned to sections on the north and west sides of a township. Thus all shortages or surpluses in north and south measurements will appear in the northern tier of sections (1 to 6). Shortages or surpluses in east and west measurements will appear in the west tier of sections (6, 7, 18, 19, 30, and 31). In general surveyors were directed to assign the irregularities to the outer one-half of the sections. Although the procedure used varies throughout Illinois, the assignments were generally made by subdividing all sections on the north and west sides of a township, except Section 6, into two regular quarter sections and two regular half-quarter sections. The remaining four fractional quarter-

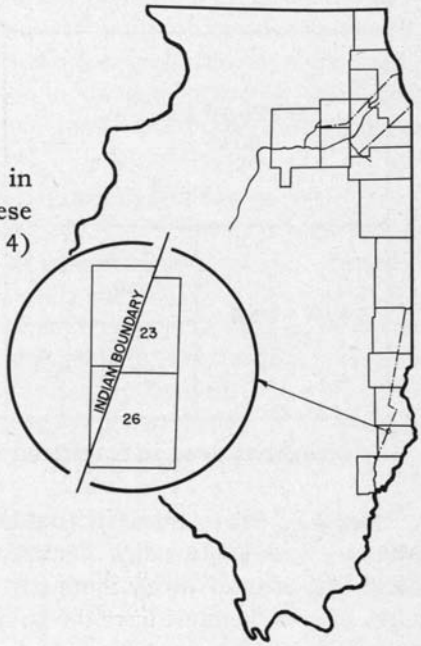


How sections are numbered in a township. (Fig. 3)

quarter sections of about 40 acres each are commonly called government lots. In Section 6, there are 7 government lots along the north and west edges of the section.

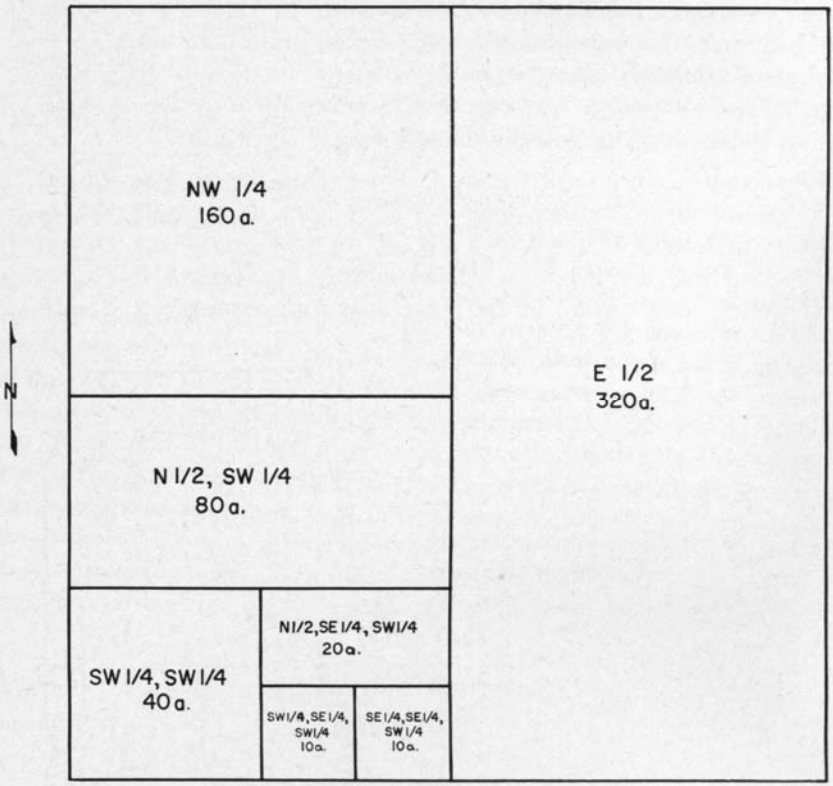
Some sections in Illinois are irregular in size or shape for reasons other than converging lines or surveyors' errors. An 1816 treaty between the Indians and the United States involving land in northeast Illinois has had a permanent effect on Illinois land descriptions. This treaty granted the government a strip of land approximately 20 miles wide from Lake Michigan along the Chicago river to its junction with the Des Plaines river and thence to near the point where the Des Plaines river joins the Kankakee river to form the Illinois river (Fig. 4). Government surveyors apparently worked from both sides up to the Indian boundary and the result is many fractional sections of irregular size and shape. Another Indian boundary near the Wabash river in southeastern Illinois has caused similar situations.

Subsections. Since most tracts of Illinois land that are the subject of a description are smaller than a full section, it is nearly always necessary to describe land within a section. In the Government Survey, each section was divided into regular quarter sections of 160 acres each. Under a law passed in 1805, markers were established at each



Location of Indian boundaries in Illinois. Inset shows effect of these boundaries on section lines. (Fig. 4)

quarter-section corner of every section, except at the center of the section. Each quarter section thus established is described according to its geographical position as the Northeast, Northwest, Southwest, or Southeast Quarter. Tracts smaller than a quarter section are ordinarily described according to their fractional part of a quarter section and their location within the quarter. The square 40-acre tract in the southwest corner of a section would be described as the Southwest one-fourth of the Southwest one-fourth of the section, or in abbreviated form, the SW¼ of the SW¼ (Fig. 5).



Descriptions used in fractional sections. (Fig. 5)

Plat Act. When tracts of land are reduced to less than 5 acres, the Plat Act may apply. This Act specifies that when the owner of land subdivides it into two or more parts, any one of which is less than 5 acres in area, he must have the land surveyed and a plat made.

Metes and Bounds System Sometimes Used

Although Illinois was surveyed under the rectangular survey system, many tracts of land in this state are described either partially or wholly under a much older system known as the metes and bounds system. This system describes the land according to its boundaries and their measurements. It is frequently necessary or desirable to use metes and bounds descriptions in combination with the rectangular survey system, especially when rivers, lakes, and in some instances highways form a part of the boundary.

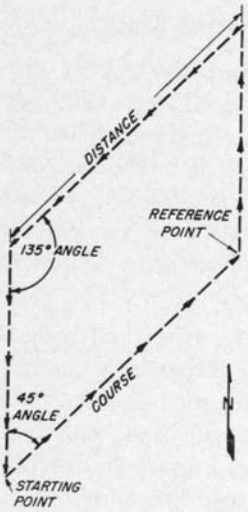
Starting point. Any description according to the metes and bounds system must have a point of reference or starting place. The description then continues specified distances along lines called courses until the tract has been circumscribed and the starting point reached. It is necessary that the "calls" or recitals of distance and direction describe an enclosed tract. If they do, the description is said "to close."

The starting point of metes and bounds descriptions in Illinois may be the quarter-section corners of the Government Survey. These points may be ascertained by reference to the original or restored corner markers.

Metes and bounds descriptions sometime involve topographic features as a point of reference or starting point. Trees, stones, rivers, or lakes referred to in this connection are called natural monuments. Government Survey corner markers, fences, and highways are called artificial monuments. A disadvantage in using monuments, natural or artificial, in descriptions is that they may be moved, destroyed, or obliterated.

Courses and distances. Courses are lines identified by their direction. Distances are linear measurements along these lines. There are many ways used to describe a course. Some involve the use of monuments. A description of this type might read in part: "Starting at the big oak tree, thence 317 feet to the maple tree. . . ." A course, however, is generally described in terms of its angular relation to a point of reference. The point of reference ordinarily used is a meridian, or true north and south line. The course is given in terms of angular measurement to the meridian. Such a course is also called the bearing of the line.

A circle is composed of 360 divisions, called degrees. A degree is made up of 60 minutes of 60 seconds each. Thus a true east direction forms an angle of 90 degrees and no minutes with a true north-south



Sketch of a tract described by the metes and bounds system. (Fig. 6)

line. In describing an angular course, the angle formed with the meridian and the point of reference is given. A course in a northeast direction would be described as North 45 degrees East, meaning that the course is 45 degrees east of the true north-south line (Fig. 6). (A compass is not entirely reliable as an indicator of true north and south. Because of the difference in location of the geographic North Pole and the magnetic North Pole, a certain deviation will be present. This deviation from true north-south, called magnetic variation, must be considered in determining any course by means of a compass.)

Many units of measurement are used to describe distances along a line. Miles, feet, and rods are the most commonly used, though chains are also frequently used. A chain is 66 feet long and is composed of 100 links of 7.92 inches. Actual chains having 50 links were used in much of the surveying of Illinois land. These chains, called two-pole chains, are half as long as the legal chain.

Here is a table of commonly used measurements and their equivalents.

1 mile.....5,280 feet; 320 rods; 8 furlongs; 80 chains
1 rod[a].....16½ feet; 25 links
1 furlong.....660 feet; ⅛ mile; 40 rods; 10 chains
1 chain.....66 feet; 4 rods; 100 links
1 link.....7.92 inches; 1/100 chain

[a] Also called a perch or pole. The term "rod" is derived from the use of a pole 16½ feet long as a measuring device.

Irregular boundaries. Not all tracts of land have regular rectangular boundaries. Lands bordering on lakes or rivers are in this

category. Descriptions of land bordering on such irregular boundaries are likely to include phrases such as ". . . to X river, thence along X river. . . ." As a general rule in Illinois unless the deed expressly states otherwise, the description will be interpreted to mean a tract with one boundary at the center line or thread of the stream. This means the middle line between the shores without considering the location of the channel. In the case of navigable rivers or streams, the ownership of the stream bed is burdened with the right to navigation on behalf of the public.

Lake boundaries are in a somewhat different class from river boundaries. Title to the beds of lakes, which are navigable and meandered,[1] is in the state in trust for the people. In other natural lakes, owners of property abutting the lake own to the center of the lake. Ownership of the beds of artificial lakes depends upon the words of conveyance used in transferring shoreline properties. There is no presumption that the conveyance includes any part of the bed to such lakes.

Highways and streets are sometimes used as boundaries in legal descriptions, especially if the highway forming the boundary is curved or irregular. Descriptions of land abutting public highways in Illinois will be interpreted to include a portion of the right-of-way unless the wording makes it clear that ownership does not include such a portion. This rule does not apply, however, where the public owns the right-of-way in fee simple absolute (complete title), nor when a city street is involved. Under Illinois law, when the plat for city property is recorded, title to the streets shown on such plat vests in the city.

Quantities and Exceptions

Although not advisable, descriptions by quantity are used occasionally. An example would be a description of land as the ". . . northeast 40 acres of the northeast quarter of section. . . ." The courts would probably interpret such a description to mean a regularly shaped tract in the form of a square of 40 acres with its northern boundary coinciding with the north side and its eastern boundary coinciding with the east side of the northeast quarter of the section.

Quantities are frequently used following a particular description in regular form. The courts have uniformly held that statements of this nature are merely descriptive and do not determine the quantity transferred.

[1] A meandered lake is one shown on the government surveys by meander or traverse lines run along the water's edge to show the area of the water. Meander lines do not constitute boundaries.

Where conflict exists in a description, the courts have held that natural boundaries or monuments are more reliable than artificial monuments, and that monuments are more reliable than courses and distances. Quantities are the least reliable of the forms of description.

If a certain portion of a tract is not to be included in a description, the description will frequently contain an exception. The larger tract will be described and after the word "excepting" the smaller portion will be described. Care must be exercised in drafting exceptions to avoid any ambiguity.

WHAT TO DO when formulating legal descriptions —

- **Use extreme care**
- **Do not rely on unofficial descriptions; for example, tax receipts or commercial plat books**
- **After having formulated a description, sketch a section, dividing it into half, quarter, and quarter-quarter sections as may be necessary. Locate the land in the section and check the description against the sketch to see that the two correspond**
- **Obtain the services of an attorney if the description is to be part of a legal document**

(This circular was prepared by James J. Elson, formerly Instructor and Research Associate in Agricultural Law and member of the Illinois Bar. He gratefully acknowledges the assistance of W. H. Eldridge, Instructor in Civil Engineering, in its preparation.)

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